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DEPARTMENT (LJC)
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JUL 1-3 2004

OFFICE OF PETITIONS

In re Application of :
Kotzin :
Application No.: 10/749,321 : **ON PETITION**
Filing Date: January 2, 2004 :
Attorney Docket No.: CS10665 :

This decision concerns the June 17, 2004 "Petition to Correct Filing Date" which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **DISMISSED**.

The petition requests a filing date of December 31, 2003, rather than the presently accorded filing date of January 2, 2004, asserting that the application was deposited on December 31, 2003 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" ("Express Mail") service pursuant to the requirements of 37 CFR 1.10.

Under 37 CFR 1.10(c), any person filing correspondence that was received by the USPTO and delivered by the "Express Mail" service may petition the Commissioner if there is a discrepancy between the filing date accorded by the USPTO to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. However, such a petition must include, *inter alia*, **a true copy of the "Express Mail" mailing label indicating the "date-in" or other official notation by the USPS relied upon to show the date of deposit**. The petition lacks such a copy of "Express Mail" mailing label and is thus dismissed.

No petition fee is owed. The \$130 petition fee charged to Deposit Account No. 50-2117 has been reversed.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions